TO: Electoral Area Services Committee
MEETING: January 14, 2020
FROM: Catherine Morrison
Manager, Emergency Services
FILE: 7130-02 EPA
SUBJECT: Modernizing BC’s Emergency Management Legislation

RECOMMENDATION

That the Board endorse the submission (attachment 3) on the Modernizing BC’s Emergency Management Legislation discussion paper.

SUMMARY

In January 2016, EMBC issued the first discussion paper outlining potential changes to the Emergency Program Act. The feedback provided was considered in developing the proposals outlined in the second discussion paper released October 30, 2019 called “Modernizing BC’s Emergency Management Legislation” (Attachment 1). Comments on the proposals are to be submitted by January 31, 2020.

Results from the feedback received by the province will be released in a provincial “What We Heard” report in the spring of 2020 and new legislation is anticipated in the fall of 2020 for implementation in spring of 2021. The provisions and regulations are to be phased starting in spring of 2021.

BACKGROUND

The Emergency Program Act was first introduced in 1993 and primarily focused on preparedness and response to emergencies. The province has indicated that recent emergency events and substantial reviews have shown the need to adapt BC’s approach to emergency management.

In 2015, the United Nations developed the Sendai Framework for Disaster Risk Reduction. 187 countries have adopted the framework and in 2018, BC became the first province to adopt it. The proposed Emergency Management Act is guided by the Sendai Framework which shifts the focus from preparedness and response to disaster risk reduction acknowledging that risk identification and mitigation are key to managing hazards and reducing their impacts. Seven design principles identified below, are guiding the development of BC’s modernized emergency management legislation.

1. A Four Pillar Approach
2. Shifting How We Think
3. An All-of Society Approach
4. Putting Safety First
5. Transparent Decisions

6. A funding Mechanism that Works

7. Focus on Inclusion

The provincial discussion paper examines these 7 principles in 12 discussion areas, provides background on the discussion and legislative references, as well as 44 related proposals for possible legislative changes to modernize the Act to align with the changes made to the approach to emergency management.

Based on the information provided in the discussion paper, the recommendation is to provide support for 41 of the 44 proposals to change the Act. Many of the changes are updating language and definitions, as well as clarifying roles and responsibilities in addition to focusing on mitigation and collaboration. Significant positive changes are proposed where an all of society approach is being taken and Provincial Ministries, Crown Corporations, agencies, private sector, non-governmental agencies and critical infrastructure owners/operators are required to undertake emergency planning activities and to share those planning documents with Emergency Management British Columbia (EMBC), First Nations and Local Authorities. Given the impact that these factors have on local government jurisdictions, this would be a significant benefit to the RDN’s local emergency management planning.

A new provision would allow the Minister to grant a Local Authority the use of specific powers for a “transition period” between response and recovery of up to 90 days. The Discussion Paper indicates that the purpose behind the proposal is to support local authorities to transition from reliance on States of Local Emergency (SOLE) to their regular decision-making processes. This proposal would require a Local Authority to make an application to the Minister, citing what powers are required and demonstrating that they are in the public interest; necessary or desirable to ensure a timely and effective recovery; and proportionate in the circumstances. The Minister could approve multiple extensions, for up to 90 days each. Local Authorities would be required to report publicly on their use of the transition powers.

The current process to access emergency powers is to declare a SOLE by bylaw, resolution or by order if made by the Head of a local authority. The Head must use best efforts to obtain consent of the other members of the local authority as soon as possible and convene a meeting of the local authority to assist in directing response activities. The SOLE must include a delegation document stipulating who can use the powers, a map of impacted area, the nature of the emergency, be signed by the local authority, be sent to the Minister responsible and the details of the declaration must be published by a means of communication that the local authority or the Head of the local authority considers most likely to make the contents of the declaration known to the population of the affected area.¹ Should the use of emergency powers need to be extended beyond 7 days, a simple SOLE renewal form is required.

The proposed legislative changes would require the local authority to restart the process to access emergency powers by making an application to the Minister for authorities that have already been approved during the declaration of a SOLE. Local authorities are already pressed for resources and this proposal appears to simply create repetitive processes versus the creation of efficiencies and support for the transition to recovery.

Another proposal not recommended is to enable provincial regulations that would require the local authority to develop and submit post-disaster needs assessments and post-disaster recovery plans as a condition of receiving provincial recovery funds and the renewal of recovery powers. This proposal places all of the responsibility for post-disaster needs assessments and post-disaster recovery plans on the local authority. Recovery must take an all of society approach and collaboration between Provincial Ministries, First Nation communities, Crown Corporations, agencies, private sector, non-governmental agencies and critical infrastructure owners/operators must occur to fully grasp the impacts of an event. Provincial Ministries are the lead agency for health and housing and the local authority must be supported to work in partnership with these ministries and the above-mentioned collaborative partners in post-disaster needs assessments and recovery plans. The recovery, rehabilitation and reconstruction phase is a critical opportunity for coordination and collaboration to ‘building back better’ and enhancing the resiliency of people and communities.

The other provincial proposals have been reviewed and additional comments proposed have been provided in Attachment 2 and summarized in the Regional District of Nanaimo comments (Attachment 3).

The Province has acknowledged throughout the discussion paper that once the modernized Act is in place, EMBC will provide training and guidance materials and will ensure that significant changes are introduced through a properly phased approach. This will allow partners, including local authorities, to understand, prepare for, and work through implementation. EMBC recognizes that any new obligations for local authorities will require resourcing.

ALTERNATIVES

1. That the Board endorse the submission (attachment 3) on the Modernizing BC’s Emergency Management Legislation discussion paper.
2. That alternative direction be provided.

FINANCIAL IMPLICATIONS

There are no financial implications resulting from submission of these comments. The submission identifies that should amendments be made to the Act, there will be increased costs to the RDN. In order to respond to some of the proposed requirements, future financial resources and capacity to respond will need to be considered.

STRATEGIC PLAN IMPLICATIONS

People and Partnerships - Seek opportunities to partner with the provincial and federal governments, other government agencies, and community stakeholder groups in order to advance strategic plan goals and objectives.

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December 3, 2019
Reviewed by:

- D. Pearce, General Manager, Transportation and Emergency Services
- P. Carlyle, Chief Administrative Officer

Attachments

1. Modernizing BC’s Emergency Management Legislation
2. EM Legislation - Proposals, Recommendations, Comments Table
3. Regional District of Nanaimo comments on the proposals